



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

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TESTIMONY

DATE: February 17, 2017

PRESENTED TO: Committee on Appropriations
Connecticut General Assembly

PRESENTED BY: Susan D. Merrow
Chair

SUBJECT: Proposed Appropriation

Good afternoon. I'm Susan Merrow. I know what it is like to be confronted with difficult budget decisions year after year: I served for 12 years as First Selectman of East Haddam. I am here today as the chair of the Council on Environmental Quality (or CEQ).

This Year's Proposal

The Governor's proposed budget recommends elimination of the CEQ. The implementer bill, Governor's HB 7051, repeals the statute that establishes the Council, and removes all references to the Council from the general statutes.

This proposal stands in contrast to those of recent years when the CEQ was recommended to be merged with DEEP or various other agencies and offices. Previously, the CEQ was targeted for complete elimination only one time, when Governor John Rowland made the same proposal in 2004.

The Council has received no explanation for this proposal. In past years, various budget directors have asserted that the work is duplicative of another agency's work or could be absorbed by another agency. I am here to explain that neither explanation is accurate.

The Unique Work of the CEQ

It is hard to imagine that the State of Connecticut would do everything it does to protect the environment, through spending and regulation, without ever checking to see how the environment is responding. Yet that is where this proposal leads.

Some newer members of the Committee might not be completely familiar with the Council and its work. I have appended some background information to this testimony. For a very brief version: the Council probably is best known for producing the state's official "state of the environment" [report](#), *Environmental Quality in Connecticut*. We soon will be submitting the report for 2016. The report is generally recognized as being consistently accurate and objective. If you want to know how Connecticut's air, water, land and wildlife are doing, you will find that information in the CEQ annual report and nowhere else. **No such report is produced by DEEP, nor by any other organization.**

We know that many legislators value this report because it enables them to propose and enact legislation based on reliable data. Our annual report generally displays ten years of data, but the CEQ maintains data going back 30 years or more. In a data-driven world, the discarding of all that data would be an action that would soon be regretted.

If, through legislation, you were to require DEEP to report on the condition of Connecticut's environment (a proposal that has not been made), it is doubtful that DEEP could deliver. DEEP is losing staff, and the reports on other topics that it delivers are frequently late, sometimes by years. (Example: the Green Plan, or Land Conservation Strategy, was released this week, three years after the previous plan expired.) Again, would you really want to appropriate money year after year to DEEP, DPH, Agriculture and other agencies with no report on how the well or poorly the environment is actually doing?

Added Value: The Expertise of Council Members

The foundation of the CEQ's annual report is a set of 35 environmental indicators with which we chart, every year, Connecticut's progress towards its goals. The CEQ's reports focus on results, not on other agencies' efforts; they document successes and do not sugarcoat failures. The keys to being able to produce such reports are independence and adequate (though modest) resources. The indicators are statistically sound and have been designed over many years with the objective input of expert Council members – expertise delivered at no expense to the state. The nine appointed Council members serve as volunteers.

Special Reports

In 2016, the Council spent considerable time analyzing the reasons that many solar energy facilities are being built on farmland and forests rather than on brownfields or industrial lands. A special report, [Energy Sprawl in Connecticut](#), with recommendations for legislation, was published two weeks ago, and many of your colleagues are considering the policy changes that we recommend.

This report is just one of many special reports published by the Council in recent years. A list of some of the notable reports is attached; from their titles, you probably will be reminded of several important environmental bills that were introduced and adopted by the General Assembly.

Helping the Public and Other Agencies

We spend a great deal of time helping to solve seemingly intractable problems brought to us through citizen complaints. Attached to this testimony are excerpts from two recent annual reports, which include descriptions of problems solved.

I also want to mention the [Environmental Monitor](#), which the Council publishes online. The *Monitor* is the publication where all other state agencies post notices of state projects under the Connecticut Environmental Policy Act (CEPA). Since 2011, the *Monitor* has taken on more importance, as revisions to CEPA procedures implemented by OPM allow agencies to post a short notice whenever an Environmental Impact Evaluation is *not* going to be prepared. This new process has the twin benefits of publishing more information for the public and allowing construction projects to move more swiftly. I mention the *Monitor* in this appropriations testimony because the statute requires the *Monitor* to be published once a month, but as a service to other agencies we publish it twice a month (so no agency's project is delayed by failing to meet a monthly deadline). Also, it relates to the value of independence: by statute, the CEQ establishes the format and content of the agency postings, which I think is preferable to having the *Monitor* published by one of the agencies that is proposing and posting its own projects.

Now?

After 45 years of evaluating and improving the environment, with solid results, this hardly seems to be the time for Connecticut (or any state, for that matter) to pull back its efforts. From everything we read, we should not expect to receive any additional help from the federal government; it is likely that resources will be stretched more thinly everywhere.

As I suggested at the beginning, my years of delivering balanced municipal budgets give me complete sympathy with you in fulfilling your duty on this committee. I am struck by the size of the reported budget gap that you must close – 3.6 billion dollars over the two years – and I can't help being struck also by the fact that, if you eliminate the CEQ, you still will have to close a budget gap of 3,599,652,000 – essentially still 3.6 billion. We are within the rounding error (less than one one-hundredth of one percent of the budget *gap*). I know that every nickel makes a difference, but I am confident that *this* nickel – the one nickel that it costs the individual Connecticut resident to have a CEQ for a year – is one nickel that your constituents would urge you to spend. At 0.0000097 of the General Fund, the CEQ is quite the good deal.

Council Duties

The duties of the Council on Environmental Quality are described in [Sections 22a-11 through 22a-13 of the Connecticut General Statutes](#).

The Council is a nine-member board that works independently of the Department of Energy and Environmental Protection (except for administrative functions). The Chairman and four other members are appointed by the Governor, two members by the President Pro Tempore of the Senate and two by the Speaker of the House. The Council's primary responsibilities include:

1. Submittal to the Governor of the state's official annual report on the status of Connecticut's air, water, land and wildlife, including progress toward the state's environmental goals, with recommendations for remedying deficiencies of state programs.
2. Review of state agencies' construction projects.
3. Investigation of citizens' complaints and allegations of violations of environmental laws.
4. Reviewing Environmental Impact Evaluations that state agencies prepare for major projects under the [Connecticut Environmental Policy Act](#) (CEPA) and its attendant regulations.
5. Publication of the [Environmental Monitor](#), the official publication for scoping notices and environmental impact evaluations for state projects under CEPA. The *Environmental Monitor* also is the official publication for notice of intent by state agencies to sell or transfer state lands.

Specific examples of all of these duties are described in the pages that follow.

Examples of Special Reports and Miscellaneous Publications of the CEQ

[Energy Sprawl in Connecticut](#) (February 3, 2017, PDF)

News Release (February 3, 2017)

[Parcel Size and Land Conservation](#) – Staff Memorandum (December 10, 2015)

[Digging Connecticut: Recommendations for Reducing Impacts of Earthmoving](#) (Discussion Draft) – December 4, 2015

[Testing the Effluent: Some Systems Pass, Some Don't, and Some Won't Say](#) (March 6, 2014) (PDF, 367KB)

[News Release](#) (March 6, 2014)

The "Preserved" Series Special Reports on the Protection of State Conservation Lands

[Preserved But Maybe Not](#): The Impermanence of State Conservation Lands (January 4, 2014) (PDF, 225KB)

[Cover letter](#) to Governor Dannel P. Malloy (January 4, 2014)

Brief [slide show](#) (PowerPoint) on earlier, shorter draft version (November 20, 2013)

[Preserved and Forgotten](#): DOT Scenic Lands and Their Protection (July 14, 2009) (PDF, 100KB)

[Preserved But Not Protected](#): The Damage to Connecticut's Preserved Lands from Boundary Encroachments, Illegal Tree Cutting, ATVs, and Other Assaults (December 20, 2005) (PDF, 399KB)

[2012 Evaluation of Progress on 2002 Invasive Species Recommendations](#) - Staff Memorandum (PDF)

[Analysis of 2011 Enforcement Data - Staff Memorandum, April 23, 2012 \(PDF\)](#)

[CEQ Comments on Title V Air Quality Permit for South Meadow Station, Hartford](#) - January 4, 2012

[Coal, Fish and Connecticut's Health: a CEQ Update on Mercury Pollution](#) - December 29, 2011

[Environmental Regulation and the Growth of Small Businesses - Staff Memorandum, September 16, 2011 \(PDF\)](#)

[Report of the Subcommittee on Wetlands Training Requirements - October 18, 2010 \(PDF, 131 KB\)](#)

[CEQ Recommendations for Modernizing the Connecticut Environmental Policy Act](#) - Updated December 27, 2013

[Swamped: Cities, Towns, the Connecticut DEP and the Conservation of Inland Wetlands](#) (PDF, 335KB)

[Supporting Documentation for *Swamped*](#) (PDF, 384KB)

[Dreams Deferred? An Assessment of the Cost of Attaining Connecticut's Goals for State Parks and Environmental Protection](#) (PDF, 387KB)

[Great Infestations: Connecticut's Response to Green Invaders](#), Short Version (4 pages) (PDF, 391KB)

Activities of the CEQ
(From the CEQ annual report published in 2016)

Research and Reports

During 2015, the Council continued to develop new indicators of ecological health. Specifically, the Council has identified species of wildlife that are true indicators of the quality of their habitats. The current report includes several of those species, with an emphasis on birds of the forest. The development of such indicators requires considerable care in the selection of species, and the Council is grateful for the advice it received from experts.

The Council is required to recommend legislation for "remedying the deficiencies of existing programs and activities," and usually submits those to the governor each January, as it did in 2015.

Following up on the data that show discouraging progress toward meeting state land conservation goals, the Council began to lay the groundwork for new initiatives that will be required to reach the state's goal. A December staff [memo](#) describes some of the trends and the prospects for a possible new approach called "490 Forever."

Special Focus on Stormwater and Mining

At three successive Council meetings in 2015, residents alerted the Council to apparent deficiencies in the regulation of stormwater and surface mining. Specifically, citizens described a sediment-laden stream polluted after the erosion controls at a solar energy facility were overwhelmed, the failure of the state's stormwater general permits to protect archaeological and historic sites as intended, and the absence of state oversight of sand and gravel mining. The Council investigated all three and published a draft report with recommendations. In December 2015 and January 2016, representatives of mining and construction industries, river protection organizations and state agencies were invited to review the draft. Many valuable comments were received, and the Council will publish a final report.

Review of State Projects and Programs

All agencies submit their environmental impact evaluations (EIEs) of proposed projects for the Council's advice.

For years, the Council has been working to help modernize the Connecticut Environmental Policy Act (CEPA) in the pursuit of more concise and less expensive EIEs. Council staff participated in meetings with other agencies to further those objectives. In 2014, the Council discussed with Commissioner of Energy and Environmental Protection Rob Klee and other DEEP staff the need to update the archaic CEPA regulations, which are under DEEP's jurisdiction and have not been amended since the 1970s. No amendments to the regulations have yet emerged.

The Council received complaints when DEEP proposed to move forward on the next phase of a park-development project while relying on an EIE that had been completed 23 years earlier. The CEPA statutes and regulations are silent on the question of how long an EIE should be considered valid, which points to one of the many needs to update the regulations. The Council reinforced this point in an October 2015 [letter](#) to Commissioner Klee.

The Council submitted comments on fewer individual projects than usual in 2015. It commented on a proposal to erect a signal tower on preserved land where it could not be permitted. And following up on a 2014 CEQ special [report](#), the Council suggested to DEEP that permit renewals for alternative sewage treatment systems where compliance has been a problem should be limited to five years instead of the usual ten.

The Connecticut Siting Council also solicits the CEQ's comments on applications and petitions. The CEQ submitted comments on a proposed project in Farmington in 2015 as part of a long-term effort to improve analyses of visual impact.

Activities of the CEQ (*From the CEQ Annual report published in 2016*) -- continued**Citizen Complaints**

As noted in reports of the past five years, citizens of Haddam have spoken repeatedly to the Council about contamination of land and groundwater that has existed in their community for more than 30 years. The Council decided to follow this case closely to learn why the start of remediation in some communities is delayed for decades (if it ever occurs). In

September 2012, the Council submitted a detailed [letter](#) to Governor Dannel P. Malloy to update him on the problems in Haddam "and the broader problems made evident by this case." In November 2013, the Superior Court ruled that the owner of a former industrial facility in the community was indeed required to abide by DEEP's requirements. Investigation of the site continues but, to date, there is no remedial activity. At the May 6, 2015 Council meeting, a resident and the First Selectman of Haddam resident reminded the Council of this fact and offered recommendations.

The following are examples of the many other complaints investigated in 2015:

- The state's proposal for a new state firearms training facility appeared to be inconsistent with its Conservation and Development Policies Plan.
- Three facilities that treat hazardous wastes have violated their water discharge permit limits.
- DEEP settled a significant encroachment on state forest land with no public input, and settled for too little.
- A landscaper explained how residents and lawn care businesses rely too heavily on chemicals and practices that harm the soil and Long Island Sound.
- Snapping turtles are not protected adequately by existing statutes and regulations, making the population susceptible to excessive commercial harvesting.
- Tree clearing along state highways has been excessive.

The Council investigated all of the complaints it received and offered recommendations to the relevant state agencies, where warranted.

The following is from the CEQ's annual report for 2104:

The following are examples of the many other complaints investigated in 2014:

- A state grant for a proposed sewer project appeared to be progressing without environmental reviews.
- An inquiry about reports related to a DEEP-issued wetlands permit led to the discovery that the required compliance reports were not being submitted.
- Questions about illegal tree-cutting and historical dumping on state conservation lands led to a Council recommendation for more public notice of the resolution of encroachments.
- Officials of a municipality expressed concern over the frequency and potential impacts of pesticide applications to ponds, over which the town appeared to have little or no jurisdiction.